

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
YEKUSIEL SEBROW, an individual; on behalf  
of himself and all others similarly situated,

Plaintiffs,

vs.

\_\_\_\_\_  
FULTON, FRIEDMAN, & GULLACE, LLP, a  
New York Limited Liability Partnership;  
THOMAS MCCARTHY, individually and in  
his official capacity; JASON P. VERHAGEN,  
individually and in his official capacity;  
MARIA J. REED, individually and in her  
official capacity; PATRICIA A. BLAIR,  
individually and in her official capacity;  
DANTE GULLACE, individually and in his  
official capacity; CYNTHIA L. FULTON,  
individually and in her official capacity;  
ALLAN J. FRIEDMAN, individually and in his  
official capacity; and JOHN AND JANE DOES  
NUMBERS 8 THROUGH 25,

Defendants.  
\_\_\_\_\_

CASE NO.: 1:10-cv-05897-DLI-RER

**PRELIMINARY APPROVAL ORDER**

The Court, having considered the Plaintiff's motion for preliminary approval (the "Motion"), hereby grants preliminary approval to the Class Settlement Agreement ("Agreement") between Plaintiff, YEKUSIEL SEBROW ("Plaintiff"), individually, and as representative of the class of persons defined below ("Settlement Class"), and Defendant, FULTON, FRIEDMAN & GULLACE, LLP ("Defendant" or "FULTON, FRIEDMAN").

**WHEREFORE**, with respect to certifying this action as a class action for settlement purposes the Court finds:

- A. The Settlement Class is so numerous that joinder of all members is impracticable;
- B. There are questions of law and fact common to the proposed Settlement Class.

- C. The individual claims of Plaintiff are typical of the claims of the Settlement Class;
- D. Plaintiff is an appropriate and adequate representative for the Settlement Class;
- E. The questions of law and fact common to the Settlement Class predominate over any questions affecting only individual members;
- F. A class action is superior to other methods for fairly and efficiently settling this controversy;
- G. With respect to the appointment of Settlement Class Counsel under Fed. R. Civ. P. 23(g), the Court finds, after consideration of the factors described in Fed. R. Civ. P. 23(g)(1)(A), Plaintiff's counsel, William F. Horn, Robert L. Arleo, and Abraham Kleinman, will fairly and adequately represent the interests of the Settlement Class;
- H. With respect to the proposed Agreement, after consideration of the Agreement attached as ***Exhibit A*** to the Motion, the Court makes the preliminary finding, subject to a final hearing, that the proposed settlement is fair, reasonable, and adequate;
- I. and the Court being duly advised in the premises,

**IT IS HEREBY ORDERED:**

1. Pursuant to Fed. R. Civ. P. 23(c)(1), the Court certifies this action as a class action pursuant to Fed. R. Civ. P. 23(b)(3) and, in accordance with Fed. R. Civ. P. 23(c)(1)(B):
  - (a) defines the "Settlement Class" as (i) all persons in the State of New York; (ii) to whom FULTON FRIEDMAN sent a written communications in the form attached as ***Exhibit A*** or ***Exhibit B*** to Plaintiff's First Amended Complaint; (iii) in an attempt to collect a debt that was allegedly incurred for personal, family, or

household purposes; (iv) during the period beginning December 17, 2009 and ending January 18, 2011.

- (b) defines the "Class Claims" as those claims arising from Defendant's written collection communications in the form attached as Exhibit A or Exhibit B to Plaintiff's First Amended Complaint, which Plaintiff contends falsely implied, *inter alia*, that any individual is an attorney and that the communications received meaningful review or involvement from a licensed attorney;
  - (c) appoints Plaintiff as the Class Representative; and
  - (d) appoints Plaintiff's counsel, William F. Horn, Robert L. Arleo and Abraham Kleinman, as Class Counsel.
2. The Court approves the Parties' proposed Class Notice and directs it be mailed to the last known address of the Settlement Class members as shown in Defendant's records. Defendant will cause the Class Notice to be mailed to Settlement Class members on or before April 8, 2013 (thirty (30) days after entry of the preliminary approval order). Defendant will have the notice sent by any form of U.S. Mail providing forwarding addresses.
3. The Court finds that mailing of the Class Notice is the only notice required and that such notice satisfies the requirements of due process pursuant to the Federal Rules of Civil Procedure, including Rule 23, the United States Constitution, and any other applicable law.
4. Settlement Class members shall have until May 23, 2013 (the first business day after the 45th day after the initial mailing of the Class Notice) to exclude themselves from or object to the proposed settlement. Any Settlement Class

members desiring to exclude themselves from the action must serve copies of the request on Class Counsel and Defendant's counsel by that date. Any Settlement Class members who wish to object to the settlement must submit an objection in writing to the Clerk of the United States District Court for the Eastern District of New York, and serve copies of the objection on Class Counsel and Defendant's counsel by that date. Any objection must include the name and number of the case and a statement of the reason why the objector believes that the Court should find that proposed settlement is not in the best interests of the class. Objectors who have filed written objections to the settlement may also appear at the hearing and be heard on the fairness of a settlement. To be effective, the request for exclusion or objection must be postmarked by May 23, 2013

5. Defendant shall file with the Court proof of compliance with the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. §1715(b).
6. A final hearing on the fairness and reasonableness of the Agreement and whether the final approval shall be given to it and the requests for fees and expenses by Class Counsel will be held on June 14, 2013 at 10:00 a.m.

**IT IS SO ORDERED:**

T. C. RIVERA  
HONORABLE RAMON E. RIVERA, JR.  
United States Magistrate Judge

Dated: 3/8/13